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THE SEAMEN'S ACT

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The Seamen's Act which was approved by President Wilson on March 4, 1915, and which went into effect as concerns vessels of American registry on November 4, 1915, has been highly applauded on one side by those ostensibly representing American seamen and as soundly condemned on the other side by those who are attempting to build up an American merchant marine. This act, which has been the object of so much controversy, is entitled in full: "An Act to promote the welfare of American seamen in the merchant marine of the United States; to abolish arrest and imprisonment as a penalty for desertion and to secure the abrogation of treaty provisions in relation thereto: and to promote safety at sea."¹

There is much in the act which is generally approved. Certain recommendations made by the International Conference on Safety of Life at Sea,² in a report signed at London, January 20, 1914, have been embodied in the act and are reflected in its title. This conference was called as a result of the sinking of the White Star liner *Titanic*. Certain provisions, however, relating to language requirements of sailors, desertion, and life-saving appliances are claimed to unduly increase the cost of operating vessels under our flag.

THE CONTROVERSY OVER THE SEAMEN'S ACT

The different points of view are interesting as showing the feeling which has been aroused by this act. Senator R. M. La Follette of Wisconsin, the father of the Act, writes in *La Follette's Magazine* for March, 1915, in part as follows:

It is four days since the President signed the Seamen's Bill, and already the masters of the sea are beginning to threaten dire vengeance. Through their press they are turning out columns of violent denunciation of the law. Already they

¹ Publication No. 302. Sixty-third Congress, S. 136.

² International Conference on Safety of Life at Sea. Sixty-third Congress, second session. Senate Document No. 463.

are giving warning that they will cancel their American registry. . . . With the American flag at the masthead they now man their vessels with underpaid, underfed Chinese with whom the owners have displaced American seamen.

The American sailor in his bondage has been forgotten for generations. At last his appeal has been heard. It was reserved for President Wilson in the closing hours of the Sixty-third Congress to approve a measure which blots out the last vestige of slavery under the American flag. The Seamen's Bill is the second proclamation of freedom. The fourth of March, 1915, is the sailor's emancipation day.³

Senator La Follette in the April number of his magazine pays tribute to Andrew Furnseth, for nearly twenty-five years secretary of the Pacific Coast Seamen's Union and president of the International Seamen's Union, who has long been a lobbyist in Washington where he has steadfastly advanced his cause. His personal efforts played a large part in the passage of this Seamen's Act. Mr. Furnseth has been a man of one idea—to secure an American standard of living for the American sailor.

The point of view represented by Senator La Follette and Mr. Furnseth has been primarily the human point of view. Those who have opposed the act have considered it mainly from the economic point of view. Very frequently assertions have been made that the proposers of the act utterly ignored its possible economic effect. Such an inference, for example, was made by Mr. R. P. Schwerin, manager of the *Pacific Mail*, when in an article he quotes with approval the following:

In the Senate, Senator La Follette who introduced the bill, to quote from the *Providence, R. I., Journal* of March 8, boasted of the fact that he was a landlubber; that he had nothing to do with the framing of the bill: he was ignorant of the subject matter and had no intelligent notion of its possible effects and consequences, except that he was sure (and in this he was undoubtedly right) that it was satisfactory to the lobby which represented the Seamen's Union.⁴

Mr. Schwerin in this same article sums up the opposing forces as follows:

After a two-year struggle between the labor leaders interested in trades both ashore and afloat, and the shipowners, ship managers and agents, the Seamen's Bill became a law on March 4, 1915.⁵

The conflict over the act has been enhanced by the opportunity

³ *La Follette's Magazine*, March, 1915, p. 2.

⁴ *Pacific Marine Review*, April, 1915, p. 13.

⁵ *Pacific Marine Review*, April, 1915, p. 13.

created by the European war, to build upon an American merchant marine. The need of a merchant marine at the present time is affirmed by those who are most prominent in promoting our foreign trade. The National Foreign Trade Council, which comprises a distinguished membership, on September 23, 1915, approved a report of its Merchant Marine Committee, consisting of Robert Dollar, James A. Farrell and P. A. S. Franklin. The recommendations of this committee include (No. 4) one which advises that the President be empowered to suspend the Seamen's Act as relating to the language test and the minimum percentages of able seamen among the deck crew.⁶

It seems likely, therefore, that the controversy over the Seamen's Act may again be revived in Congress.

THE PROVISIONS OF THE SEAMEN'S ACT

Work of Seamen

SEC. 2. That in all merchant vessels of the United States of more than one hundred tons gross, excepting those navigating rivers, harbors, bays or sounds exclusively, the sailors shall, while at sea, be divided into at least two, and the firemen, oilers, and water tenders into at least three watches, which shall be kept on duty successively for the performance of ordinary work incident to the sailing and management of the vessel. The seamen shall not be shipped to work alternately in the fireroom and on deck, nor shall those shipped for deck duty be required to work in the fireroom, or vice versa; but these provisions shall not limit either the authority of the master or other officer of the obedience of the seamen when, in the judgment of the master or other officer, the whole or any part of the crew is needed for the maneuvering of the vessel or the performance of work necessary for the safety of the vessel or her cargo, or for the saving of life aboard other vessels in jeopardy, or when in port or at sea from requiring the whole or any part of the crew to participate in the performance of fire, lifeboat, and other drills. While such vessel is in a safe harbor no seamen shall be required to do any unnecessary work on Sundays or the following-named days: New Year's Day, the Fourth of July, Labor Day, Thanksgiving

⁶ Report of the National Foreign Trade Council on the Merchant Marine, p. 15, National Foreign Trade Council, 64 Stone Street, New York.

Day, and Christmas Day, but this shall not prevent the dispatch of a vessel on regular schedule or when ready to proceed on her voyage. And at all times while such vessel is in a safe harbor, nine hours, inclusive of the anchor watch, shall constitute a day's work.⁷

This provision is expected to entail in certain cases additions to the crews now required. Section 1 provides that when desertions occur at any port substitutions must be made, if obtainable, at the same or higher rating.

Quarters and Food for the Crew

Every man must have 120 cubic feet and at least 16 square feet deck room for sleeping quarters. The effect of this provision is stated by Mr. Welding Ring as follows:

This is two-thirds more cubic space and one-third more floor space than was formerly required. A certain 10,000-ton ship owned by a New York company carried 39 men in the crew. It must now devote 2,808 cubic feet to the crew. It will hereafter have to devote 4,680 cubic feet, an increase of 1,872 cubic feet. This will take 47 tons from the cargo space. Hospital quarters will displace 9 tons more.⁸

Provisions are also made for suitable wash rooms.

The provisions in respect to crew quarters, as well as those relating to the food menu, may require changes on certain vessels. Altogether, however, these provisions are good. Many American vessels already exceed these minimum requirements.

Payment of Seamen's Wages

The custom of holding back seamen's wages to protect a vessel from desertion in foreign ports has been legislated against in this act. As the law now reads:

Every seaman on a vessel of the United States shall be entitled to receive on demand from the master of the vessel to which he belongs, one-half part of the wages which he shall have then earned at every port where such vessel, after the voyage has commenced, shall load or deliver cargo before the voyage is ended.⁹

The seaman secures half his pay and if he then deserts he cannot be prosecuted. This provision will also affect seamen on foreign vessels after March 4, 1916, or at such later date as existing treaties

⁷ Department circular No. 262, Department of Commerce, on the administration of this section, was issued August 13, 1915.

⁸ The Americas, National City Bank. March, 1915, p. 35.

⁹ Sec. 4, also Department circulars 259, 260, Department of Commerce.

may be abrogated. These payments of wages may not be nearer together than five days. Where vessels make many ports of call additional clerical labor will be required to handle the wage settlements.

Since the master of the ship must secure substitutes "of the same or higher rating," where obtainable, some difficulty may be experienced.

This provision will not be serious unless the seamen utilize it to unduly strengthen the position of their unions.

Safeguards of Seamen

American seamen are protected against attachments of their wages.

SEC. 11. Sections of the Act of December 21, 1886, are amended as follows:

(a) That it shall be and is hereby made unlawful in any case to pay a seaman wages in advance of the time he has actually earned the same.

(b) That it shall be unlawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of his wages he may earn.

(c) That no allotment shall be valid unless in writing and signed by and approved by the shipping commissioner.

(e) This section shall also apply to foreign vessels in American waters.

SEC. 12. That no wages due or accruing to any seaman or apprentice shall be subject to attachment or arrestment from any court.

American seamen stranded in foreign ports have been the special wards of American consuls, according to the Act of December 21, 1898, which reads:

If the seaman is discharged on account of injury or illness, incapacitating him for service, the expenses of his maintenance and return to the United States shall be paid from the fund for the maintenance and transportation of destitute American seamen.

Section 19 of the Seamen's Act of March 4, 1915, adds to these words the following:

Provided, That at the discretion of the Secretary of Commerce and under such regulations as he may prescribe, if any seaman incapacitated from service by injury or illness is on board a vessel so situated that a prompt discharge requiring the personal appearance of the master of the vessel before an American consul or consular agent is impracticable, such seaman may be sent to a consul or consular agent, who shall care for him and defray the cost of his maintenance and transportation, as provided in this paragraph.

Special regulations on this section are made in the Department circular No. 263.

For some time the practice has been discontinued of having our consuls secure the arrest of deserting American seamen, a policy still followed by many nations. The act specifies that for desertion a seaman shall forfeit any clothes or effects he has on board and his accrued wages. Penalties are also levied for acts of insubordination.¹⁰ Flogging and all forms of corporal punishment are prohibited.¹¹

The liberal policy toward American seamen is to also be extended to seamen on foreign vessels in American waters, in as far as arrest for desertion is concerned. Section 16 of the act reads:

That in the judgment of Congress articles in treaties and conventions of the United States, in so far as they provide for the arrest and imprisonment of officers and seamen deserting or charged with desertion from merchant vessels of the United States in foreign countries, and for the arrest and imprisonment of officers and seamen deserting or charged with desertion from merchant vessels of foreign nations in the United States and the Territories and possessions thereof, and for the coöperation, aid, and protection of competent legal authorities in effecting such arrest or imprisonment and any other treaty provision in conflict with the provisions of this Act, ought to be terminated, and to this end the President be, and he is hereby, requested and directed, within ninety days after the passage of this Act, to give notice to the several Governments, respectively, that so much as hereinbefore described of all such treaties and conventions between the United States and foreign Governments will terminate on the expiration of such periods after notices have been given as may be required in such treaties and conventions.

The sailor has long been an object of special legislation. Discipline upon the sea, maintained by legal penalties, has been necessary and sometimes masters have taken undue advantage of their power. Sailors in port have also been more or less the object of governmental protection. Some of the first limitations, for instance, put upon freedom of contract were passed to protect seamen's wages.

In this act the stipulations which are intended to protect the seamen against loss of wages, against brutal treatment, and against severe action in the case of desertion, do not seem to be too generous for a normal responsible American workman. Our seamen, however, have literally been gathered from the ends of the earth and as a class they are less easily managed than are our workmen in domestic trades. It remains to be seen whether the American sea-

¹⁰ Sections 7 and 8.

¹¹ Section 9.

men will respond to the new regulations in the right spirit. If they do not, they may be able to severely embarrass the shipping companies. Confidence, however, placed in men is usually returned. When a trade agreement for example was entered into some years ago between the anthracite coal operators and the miners' union, it was freely predicted that the miners were not the kind of men to trust with an agreement. This prediction proved to be wrong. Those who now predict lack of discipline among American crews as the result of the above provisions may also prove to be mistaken. Instead of a slacker service an actual improvement may be found. This movement to give the seamen a better chance has not been generally opposed and it should not be, unless the seamen show themselves to be unworthy of this trust.

Life-Saving Regulations

About two-thirds of the body of the act is taken up with the regulations relating to life-saving appliance and the manning of life boats.¹² Additional expense may be required of some American vessels to meet with these regulations. The manager of one American line, however, testified that no additional expense would be required in their case. These regulations are specific and as a whole carefully considered. These safety provisions are an excellent feature of the act.

Able Seamen

The act creates certificated "able seamen."¹³ The percentage of the crew, exclusive of officers and apprentices, of a rating of able seamen required for the first year is 40 per cent, second year 45 per cent, third year 50 per cent, fourth year 55 per cent and thereafter 65 per cent.

Able seamen for ocean service must be 19 years old and must have had three years' service on deck at sea or on the Great Lakes.

The examination given by the steamboat inspection service of the Department of Commerce, for a certificate,¹⁴ includes a physical examination and tests in knowledge of seamanship.

During the first week of the operation of the law, November 4-11, physical examinations were given in New York to 913 men.

¹² Section 14.

¹³ Section 13.

¹⁴ Department circular 264.

Of this number 101 failed to pass. The principal defects which made for ineligibility were faults of vision, color blindness, and physical weakness. As a whole the men applying were excellent as to physical condition, according to the testimony of the examining doctors.

The number of seamen refused certificates on the Pacific coast is reported by the newspapers to be large. Mr. Furnseth has been led to protest to Washington against the application of the law.¹⁵

The rush to secure certificates shortly after November 4 was great. Many American vessels, however, were unable to immediately comply with the full provisions of the act, as relating to the quota of certificated seamen.

Additional wages may be obtained by certificated seamen, if they are in a position where the steamship owners absolutely need them to comply with the law. The hands of the Seamen's Union should, therefore, be strengthened. This is what is feared by the steamship owners. It is impossible to foretell to what extent the Seamen's Union will take advantage of the situation.

Language Test

No vessel of 100 gross tons or over, except those navigating rivers exclusively and smaller inland lakes, shall be permitted to depart from any port of the United States unless she has on board a crew not less than 75 per cent of which are able to understand an order given by the officers.¹⁶ This has been construed to mean the necessary orders that may be given to crews in each department in the performance of their duties.¹⁷

Any language which is understood in sufficient measure by both the officers and the proper proportion of the crew will comply with the law.

"It must clearly be understood, therefore, that the section cannot be construed as requiring an English-speaking crew."¹⁸

Among the necessary orders which must be understood by the crew are not only the orders relating to their specific duties on board ship, but also orders necessary for lifeboat duty. In making the

¹⁵ Editorial, *New York Times*, November 11, 1915.

¹⁶ Section 13.

¹⁷ Department circular 265.

¹⁸ Department circular 265, Department of Commerce.

tests the orders are to be given by the officers and not by the customs collector. The tests shall also be made sufficiently in advance of sailing time to enable the ship to engage such new members of the crew as may be necessary.

The spirit in which the language test is to be administered is found in the concluding sentence of Department circular No. 265, issued September 18, 1915, and signed by Secretary W. C. Redfield:

The Department understands the law to require the safeguarding of the vessel through the language test by such means and at such times and in such manner as shall be helpful and not hurtful to our maritime commerce, and that it is in no sense intended to be used to create embarrassment or to cause unnecessary expense or delay.

The lenient construction of the law, as relating to the language test, has been reputed in some quarters to work against the intention of the law which was to drive Chinese crews off American vessels in the Pacific. The language test which has been considered such a body blow to American shipping in the Pacific, at least looks far less ominous with the recent interpretation. That the interpretation is a fair and reasonable one, under the law, may be doubted by some. It is an interpretation, however, which rings true to the interest both of safety at sea and to the welfare of American shipping.

ISSUES INVOLVED IN THE SEAMEN'S ACT

In attempting to arrive at any conclusions concerning the effect of the Seamen's Act, two interests must be considered—the American seamen and the American merchant marine.

An American standard of living afloat is a fair enough proposition considering the protective tariffs which have been asked of Congress to safeguard an American standard of living ashore. It is not only a question of fairness, however; it is also a question of the national welfare, as every issue should be, no matter what individual precedents have gone before. "Pork barrel" politics are common, but they are not a justification.

The American merchant marine also cannot claim special favors unless the country needs it. Our merchant marine policy is frequently cited as having been suicidal for years. The country, however, has been centered in internal development and at great profit. The time seems to now have arrived on the contrary when we must look to external development and here is the present reason for a

marine. Our treatment of the merchant marine is inevitably linked with the question of our present need for its service.

The Claim of the American Seaman

Who is the American seaman, in the first place, is a question worth asking when we start out to state his claims. Of the men shipped and reshipped by the shipping commissioners on vessels of the United States for the fiscal year ending June 30, 1914, we find only 47.4 per cent were American citizens, and only 31.5 per cent were native-born Americans. For this year the percentage of seamen who deserted was, however, only 1.39 per cent.¹⁹

The nationality of certificated able-bodied seamen under the new act has not yet been compiled. The nationality of 100 men to whom certificates were issued in New York on November 9 and 10 may be taken as a specimen.

NATIONALITY OF 100 CERTIFICATED MEN

United States.....	22	Denmark.....	4
Norway.....	16	Holland.....	7
Russia.....	7	Germany.....	6
Italy.....	7	Austria.....	3
Switzerland.....	3	Spain.....	2
Finland.....	5	Sweden.....	4
United Kingdom.....	5	Belgium.....	1
Portugal.....	6	Greece.....	2

The intention of the Seamen's Act is to benefit the seaman on American vessels whether he be a citizen or not. The fact that more than half of our seamen are not even naturalized American citizens, should not prevent our enforcing good living conditions in our ships, but it should make us conservative about putting in a much more costly system than is followed by competing nations.

Shipping is an industry which is the first to feel international competition. Since discriminating duties have been abolished by treaties among the principal maritime nations, the country which can do the shipping the cheapest has secured the traffic. In many instances American industries have been able to pay higher wages and compete because of superior efficiency. In the old days of sailing ships when the Yankee seaman was at his best we had superior efficiency on the high seas. Edmund Burke, for instance, in his famous speech on Conciliation with the Colonies, paid high

¹⁹ *Annual report of the Commissioner of Navigation, 1914, p. 24.*

tribute to the superior efficiency of the Yankee sailor. Recently under our navigation laws where it has cost more to operate our ships than it has our competitors, if anything greater efficiency has been on the side of the foreigner. We are not likely, in fact, to increase our efficiency in operating ships until we have built up our merchant marine to larger proportions.

The additional costs entailed by the Seamen's Act should, as a matter of principle, be offset as far as possible by greater labor efficiency. If the seamen do not respond in this fashion the act will be an added burden to our shipping.

If the act attracts a better class of men to the seamen's trade it may justify itself. With a growing merchant marine, such as we require, more officers and skilled men will be needed. The same sort of spirit which has made for success in some of our industries will be needed in shipping, when we begin to expand.

American ship-owners have been very pessimistic over our navigation laws, especially this last. They evidently see no likely increase in efficiency to offset increased costs. They see only a plain bill of added costs with nothing to offset it on the other side. Unless some return is given for better conditions the seamen will be killing the goose that laid the golden egg. They will be devising themselves out of their jobs.

The Act and Our Merchant Marine

Although on June 30, 1915, the American merchant marine with a gross tonnage of 8,319,486 ranked second only to Great Britain among the merchant navies of the world, a large part of this tonnage was engaged in trade on the Great Lakes and on coast-wise routes where we have a monopoly. Our tonnage engaged in foreign trade is barely a million and a half tons. This puts us behind Germany, France, Norway and Japan in oversea tonnage.

As the result of the European war we need merchant ships of our own, as we have not for many years. In the first place our commerce destined to neutral ports in Europe has been severely hampered due to our dependence upon British ships. Regulations have been put in force on British ships which are distinctly to our disadvantage. In the second place we need better shipping connections with outlying markets such as the Far East, the west coast of South America, Australia and South Africa where during the past six months our goods have been in increased demand.

The three main reasons why our oversea merchant marine has not developed more rapidly are: first, higher cost of building ships in this country, second, higher rates for capital, and third, higher costs of operating vessels. Our steel industry has now arrived at a high point of efficiency and leads the world; if we started building ships on large scale there is every reason to believe that we could turn them out as cheaply as any nation. A subsidy to start a building program would be a wise national investment.

There is now also an inducement for American capital to go into shipping, something which has not been true until recently. The Englishman has been content to average three or four per cent return on his shipping; the American who has been able to make more in inland investment has not been attracted by this return. Times, however, have changed. Three or four per cent money is not liable to be known in England for some time. The American can today loan money as cheaply or more cheaply than the English. Earnings on ships also seem destined to be high for several years, due to the shortage caused by the war. As an investment proposition, therefore, shipping looks better today to American capital than it has since the Civil War.

With an opportunity almost within our grasp, it seems fatal to raise the cost of operation on our vessels so much higher than that of our competitors as to sweep our vessels off the seas. The Pacific Mail, for example, seeing no chance of profit ahead, accepted a favorable moment to sell its ships and many of our merchants have already suffered from the withdrawal of this line. When we sorely need ships we must make it attractive to operate them.

It is hardly worth while to attempt to compare costs of operation under our flag and foreign flags. Before such comparisons will be trusted by the general American public, an authoritative investigation must be undertaken by our government through an expert commission. Various interests now distrust each other to such an extent that no other policy is practicable.

When we discover the extent of our disability in operating ships, Congress should take steps to remove this, either by subsidy or by amendment of our navigation laws, so that American enterprise can operate ships at a commercial profit. An emergency has occurred and we must not fail, as a nation, to take advantage of it. The Seamen's Bill must be considered as a part of this general problem.